



South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING AGENDA

This meeting is open to the public

April 14, 2016

9:00 AM

District Headquarters - B-1 Auditorium
3301 Gun Club Road
West Palm Beach, FL 33406

FINAL REVISED 04/13/2016 5:29 PM

1. Call to Order - Dan O'Keefe, Chairman, Governing Board
2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board
3. Employee Recognitions - Presented by Peter Antonacci, Executive Director
 - April Employee of the Month: James Harmon, Section Leader, Water Resources
 - April Team of the Month: Florida Bay Science Team
 - 30 Year Service Award: Brian Turcotte, Enterprise Scientific Data Manager, Applied Science Bureau
4. Agenda Revisions - Tia Barnett, Director, Board & Executive Services
5. Abstentions by Board Members from items on the Agenda
6. Water Resources Advisory Commission (WRAC) Report - Jim Moran, Chair
7. Approval of the Minutes for the March 10, 2016 Governing Board Meeting, held in West Palm Beach

Consent Agenda

8. Public Comment on Consent Agenda
9. Move Consent Agenda Items to Discussion Agenda

10. Board Comment on Consent Agenda
11. Waivers for Water Resource Advisory Commission (WRAC) members pursuant to Section 112.313, Florida Statutes
12. Regulatory Consent Items

Consent Orders

- Settlement of an enforcement action against General Drive Holdings, LLC, for unauthorized clearing, filling and grading, for a project known as General Drive Warehouse, in Orange County (Permit No. 48-01060-P), and authorization for the Division Director of Regulation to execute the consent order, includes payment of \$2,600 in civil penalties and \$2,500 in staff costs, for a total of \$5,100.

Summary:

Respondent agreed to the terms contained in the District consent order, in which it pledges to purchase mitigation credits from a mitigation bank, obtain a permit authorizing on-site construction activities, submit certification of construction completion to the District, and payment of civil penalties and staff cost. (Regulation, staff contact, Ricardo Valera, ext. 6404).

- Settlement of an enforcement action against Richard B. Amestoy and Kim F. Amestoy, due to unauthorized filling and dredging of wetlands, unauthorized construction of surface water management works, and failure to transfer the permit, for a project known as Jill Farms, in Palm Beach County (Permit No. 50-00985-S), and authorization for the Division Director of Regulation to execute the consent order, includes payment of \$7,800 in civil penalties and \$2,500 in staff cost, for a total of \$10,300.

Summary:

Respondents agreed to the terms contained in the District consent order.

Respondents requested a transfer of permit to reflect current ownership status, removed fill and deleterious material, regraded wetland areas to previous conditions and created a buffer. They further pledge to plant wetland areas in keeping with an approved restoration plan, record a conservation easement over remaining wetland areas in favor of the District, and payment of civil penalties and staff cost. (Regulation, staff contact, Ricardo Valera, ext. 6404).

Conservation Easement Amendments and Releases

- Approve the release of a portion of a recorded conservation easement for a project known as Excavation Number 104 in Orange County (Permit No. 48-01607-P).

Summary:

The property owner, John B. Queen, is requesting a release of 0.049 acres of a conservation easement, to facilitate construction of an Orlando Utility Commission (OUC) water-main, extending along Boggy Creek Road, which is being permitted by the Florida Department of Environmental Protection. No mitigation is proposed to offset this conservation easement release, since the area was not part of a mitigation plan, and was erroneously recorded. The 25.18 acres of wetlands intended as mitigation remain preserved under the existing recorded easement. (Regulation, staff contact, Chuck Walter, ext. 2834)

Seminole Tribe Work Plans

- Concur with the Second Amendment to the Twenty Ninth Annual Work Plan for the Seminole Tribe of Florida. This work plan is the procedural mechanism under which the District addresses water use, surface water management, natural resource management, well construction, and right of way activities the Tribe plans to undertake. This mechanism was established under the 1987 Water Rights Compact among the Seminole Tribe of Florida, the State of Florida and the SFWMD (also see Section 373.200, Florida Statutes).

Summary:

Under this amended work plan, the following activities are planned. Works in the Brighton Reservation include a proposal to construct three culvert crossings to provide legal access to three home sites (Onnie Cypress, Patricia Wilcox, and Lydia Cypress); works in the Big Cypress and Brighton Reservations include a proposal by the Tribe to revise the general work plan for the Big Cypress Seminole Indian Reservation and to include a general work plan for the Brighton Seminole Indian Reservation. (Everglades Policy & Coordination, staff contact, Armando Ramirez, ext. 6684)

13. Right of Way - Regulatory Item

Right of Way Occupancy Permit Requests With Waiver of District Criteria:

Staff recommends approval of a request by Florida Power & Light Company (Application Number 16-0311-1) for issuance of Right of Way Occupancy Permit Number 14585 for the installation of a 34kV single service, aerial powerline parallel run within the west right of way of L-31E from the Miami-Dade County North Canal (adjacent to SW 328th Street) running north approximately 2,673 feet to just north of the C-103 (Mowry canal) to serve the District's Biscayne Bay Coastal Wetlands interim pumping facility; and waiver of the District's criteria to allow for the placement of above-ground facilities (2 powerline poles adjacent to C-103) within 40 feet of top of bank. Location: Miami-Dade County, Section 16, Township 57 South, Range 40 East. (Field Operations & Land Management, staff contact, Karen Estock, ext. 6282)

Relaxation of Standards as Allowed Under District Rule 40e-6.011(9) F.A.C.:

Staff recommends approval that the Governing Board waive, for future Right of Way Occupancy Permit Applications, the requirement contained in District Rules which specifies that an unencumbered 40 foot wide strip of right of way, as measured from the top of bank landward, is needed for the District to perform its routine operations and maintenance activities. The area under consideration in this proposed relaxation is located along the west right of way of Airport (CR-31) Canal beginning at the north intersection with the Cocohatchee Canal continuing south to the intersection with Golden Gate Main Canal right of way in Collier County. (Field Operations & Land Management staff contact, Karen Estock, ext. 6282)

14. Resolution No. 2016 - 0401 Approve release of canal and road reservations, and issuance of non-use commitments. (Real Estate, staff contact, Kathy Massey, ext. 6835)

Summary:

The District has jurisdiction over certain reserved rights to construct canal and road right of ways, and mineral rights, together with the right of ingress, egress and exploration. Applications requesting releases of these reservations are routinely received from landowners, attorneys, title companies and lending institutions, who consider the reservations to be title defects. Applications are reviewed by appropriate

District staff and applicable local governmental agencies to determine that there is no present or future need for the reservations.

Staff Recommendation:

(Real Estate, staff contact, Kathy Massey, ext. 6835)

Staff recommends approval of the following:

- Approve release of canal reservations for Laurent Parelle and Laure Parelle (File No. 12-15-1) for 10.05 acres in Broward County
 - Approve release of canal reservations for Jason Chang, Audrey Chang and Lisa Chang (File No. 3-16-1) for 16.69 acres in Miami-Dade County
 - Approve release of canal reservations for Okeechobee Road Holdings, LLC (File No. 3-16-2) for 21.83 acres in Miami-Dade County
 - Approve release of canal reservations for Lewis Friend Farms, Inc. (File Nos. 3-16-3 and 3-16-7) for 132.20 acres in Palm Beach County
 - Approve release of canal reservations for Lewis Friend Farms, Inc. (File Nos. 3-16-4, 3-16-5, 3-16-6, 3-16-8, 3-16-9, 3-16-10, 3-16-12, 3-16-13 and 3-16-14) for 194.22 acres in Palm Beach County
 - Approve release of canal reservations for Lewis Friend Farms, Inc. (File No. 3-16-11) for 40.00 acres in Palm Beach County
 - Release canal reservations and issue non-use commitment for Smith Sundry 40, LLC (File Nos. 18593 and NUC 1688 for 5.00 acres in Palm Beach County)
 - Release canal reservations and issue non-use commitment for Sawgrass Campus E, LLC (File Nos. 18669 and NUC 1685) for 2.84 acres in Broward County
 - Release canal and road reservations, and issue non-use commitment for Blackshore Partners, LLC (File Nos. 18675 and NUC 1691) for 115.00 acres in Broward County
 - Release canal and road reservations, and issue non-use commitment for Sandy Martin (File Nos. 18676 and NUC 1692) for 4.90 acres in Palm Beach County
 - Approve release of canal reservations for Genesis Partners Development Enterprises, LLC (File Nos. 1-16-2 and 18668) for 5.00 acres in Miami-Dade County
15. Resolution No. 2016 - 0402 Approve the purchase of land interests containing 28.2 acres, more or less, in Miami-Dade County, Pennsuco Project, in the amount of \$225,600, plus associated costs, restoration costs and long term land management costs in the cumulative amount of \$57,154.92, for which dedicated funds (Lake Belt Mitigation Fund) have been budgeted; approve declaring surplus, disposal of, and removal from the asset records any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition. (Real Estate, staff contact, Marcy Zehnder, ext. 6694)

Summary:

Tract No. W9303-956 in Miami-Dade County, owned by Stewart Pate, comprises a total of 28.2 acres located within the District's Pennsuco Wetlands Project. The purchase price for Tract No. W9303-956 is \$225,600, together with associated costs, restoration costs and land management costs in the cumulative amount of \$57,154.92. The Pennsuco wetlands are approximately 13,000 acres of wetland prairie located adjacent to the east perimeter of Water Conservation Area 3B in northwestern Miami-Dade County. The Pennsuco area is bordered to the west and north by Krome Avenue, to the south by Tamiami Trail and the east by the Dade-Broward Levee.

16. Resolution No. 2016 - 0403 Authorize settlement of potential federal condemnation action by Florida Southeast Connection, LLC, against the South Florida Water Management District, the granting of permanent natural gas transmission pipeline easements and temporary construction and access easements over portions of the Lake Marion Creek Project, the Kissimmee Chain of Lakes Project, and the Indian River Lagoon-South Project comprising 19.706 acres, more or less, located in Polk and Martin Counties for the amount of \$139,278, plus \$40,500 for post-construction habitat restoration purposes; and consent to use of District easement in Osceola County. (Real Estate, staff contact, Ray Palmer, ext. 2246)

Summary:

Florida Southeast Connection, LLC (FSC) is an interstate natural gas pipeline company that was issued a Certificate of Public Convenience and Necessity by the Federal Energy Regulatory Commission on February 2, 2016, (the "FERC Certificate"). The FERC Certificate authorizes the Florida Southeast Connection Project to construct, operate and maintain approximately 77 miles of 36-inch diameter and 49 miles of 30-inch diameter underground pipeline, as well as related pipeline facilities to transport natural gas to Florida markets. FSC is authorized by the FERC Certificate to utilize eminent domain in federal district court and has notified the District that it intends to use its federal eminent domain authority to acquire permanent and associated temporary construction and access easements comprising 19.076 acres +/-, in Lake Marion Creek (Tract Nos. 2110E-002, 2110E-003, 2110E-004, 2110E-005 and 2110E-006), Kissimmee Chain of Lakes (Tract Nos. 1800E-004, 1800E-005 and 1800E-006) in Polk County and Indian River Lagoon - South (KE10E-065) in Martin County. The District will also grant to FSC a consent, without subordination of or interference with District rights, across a non-exclusive District access road easement on private property in Osceola County, 50 feet in width and immediately adjacent to State Road 60. These easement interests and consent have been negotiated in good faith by District staff with FSC, avoiding the time, expense and uncertainty of eminent domain proceedings, while minimizing impacts to District properties, obtaining compensation of \$139,278, which is in excess of the appraised value of \$131,221, additional compensation of \$40,500 for post-construction restoration in Lake Marion Creek, and appropriate insurance and indemnification terms protecting District interests.

17. Resolution No. 2016 - 0404 Advise the Department of Environmental Protection of the proposed acquisition of land interests containing 690.25 acres for the Kissimmee River Restoration and Headwaters Revitalization Project, in Osceola County, and requesting the release of funds from the Land Acquisition Trust Fund for acquisition of such land interests in the initial amount of \$2,761,000, together with statutory costs and associated costs, and further requesting the release of funds from the Land Acquisition Trust Fund for additional amounts, together with statutory costs and associated costs, as may arise associated with condemnation proceedings. (Real Estate, staff contact, Ray Palmer, ext. 2246)

Summary:

Tract No. 18200-010, owned by Bronsons, LLP, a Florida limited liability partnership, comprises a total of 690.25 acres located within the District's Kissimmee River Restoration and Headwaters Revitalization Project. Funding for Tract 18200-010 will be obtained from the Land Acquisition Trust Fund ("LATF"). As a requirement of Section 373.139(3)(c), Florida Statutes, the District must adopt a resolution to the

Department of Environmental Protection formally requesting LATF funds. The appraised value of the Tract is \$2,761,000. Resolution 2015-1213 granted District staff authority to make a written offer at the appraised value of \$2,761,000 and, if the landowner failed to accept, authority to file an eminent domain action. The landowner has rejected the offer and the District is now submitting a funding request for LATF funds.

18. Resolution No. 2016 - 0405 Authorize entering into a Cooperative Agreement with the City of Clewiston for the replacement of structure S-169. (Operations, Engineering & Construction, staff contact, John P. Mitnik, ext. 2679)

Summary:

The S-169 is a water control structure located near the City of Clewiston, in Hendry County, within the C-21 Canal right-of-way, on the southwesterly side of Lake Okeechobee and adjacent to the Herbert Hoover Dike (HHD). The structure is owned and operated by the SFWMD. The structure consists of three (3) 84-inch diameter gated culverts and is part of a regional network of water management infrastructure that provides both water supply and flood protection benefits to the S-4 Basin. Based on inspection reports the structure is in need of repair. A temporary repair was effectuated in 2013. A new structure, S-169W, will provide increased capacity and will be moved farther west on the C-21 Canal. This agreement outlines the responsibilities of the parties as they relate to the replacement structure S-169W, removal of the old structure S-169, potential future boater access along the canal, and a replacement canal crossing at the old S-169 location for access to the HHD. There is no cost to the SFWMD as part of this Cooperative Agreement.

19. Authorize publication of the Notice of Proposed Rule in the Florida Administrative Register, and (provided no changes are made and no request for hearing is timely received) adopt amendments to Rules 40E-7.214, 40E-7.216 and 40E-7.218, Florida Administrative Code, in order to revise the District's Vendor Suspension Rules 40E-7.214, 40E-7.216 and 40E-7.218, Florida Administrative Code to provide conditions for reinstatement after suspension and to correct a reference. (Administrative Services, staff contact, Doug Bergstrom, ext. 6214)

Summary:

The District is amending its Vendor Suspension Rules because the Joint Administrative Procedures Committee (JAPC) advised the District to amend the rules to state the circumstances and conditions for reinstatement after suspension and to correct a reference. The proposed rule changes will be published in the Florida Administrative Register and reviewed by both JAPC and as required in State of Florida Executive Orders 11-01 and 11-211 the Office of Fiscal Accountability and Regulatory Reform.

20. Board Vote on Consent Agenda

21. Board Comment

Discussion Agenda

22. Technical Reports

A) Water Conditions Report - John P. Mitnik, Division Director, Operations, Engineering & Construction (ext. 2679)

B) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources (ext. 6952)

C) Project Spotlight - C4 Canal Bank Improvements - Jesse VanEyck, Engineering & Construction Manager, Operations, Engineering & Construction (ext. 2605)

23. Resolution No. 2016 - 0406 Approve a Resolution supporting the State of Florida in proclaiming April as Water Conservation Month. (Water Resources, staff contact, Jim Harmon, ext. 6777)

Summary:

For the past 18 years, the month of April has been designated Water Conservation Month in Florida in order to increase awareness and promote efficient use of the state's diverse water resources. As April is normally the last month of Florida's dry season and water needs are most acute, attention is paid to the importance of conserving water.

The Florida Section of American Water Works Association has declared April as Water Conservation Month and is supported by other water management districts, local governments, and non-governmental organizations who are adopting similar resolutions throughout Florida.

24. Resolution No. 2016 - 0407 Approve revisions to the District Policies Code regarding Property Acquisition, Disposition and Leasing; moving Sections 110-161 through 110-168 to Chapter 140, entitled Land Resources; deleting Section 140-10, entitled Administration of Leases on District Land; adding new Sections 140-81 through 140-88 under a new Article VI entitled Property Acquisition, Disposition, and Leasing; providing for severability (Real Estate, staff contact, Richard Bassell, ext. 2510) - **ITEM REVISED**

Summary:

A minor revision to the Administration of Leases on District Land Policy was adopted in November 2012; however, the last comprehensive revision was in March 2012. The proposed revisions implement updated District real estate management goals and objectives in clear and simplified leasing provisions while clearly communicating expectations to lease tenants.

Additional revisions are necessary to remove duplication and confusion of policies relative to Property Acquisition, Disposition, and Leasing. This will be accomplished by consolidating the Acquisition and Disposition Policy in District Policies Code in Chapter 110 with the Administration of Leases on District Land in Chapter 140 into the Acquisition, Disposition and Leasing Policy in a new Article VI in chapter 140. Therefore, policy changes addressing the administration, responsibilities, and appropriate use relative to property acquisitions, dispositions and leasing by the Real Estate Division.

25. Resolution No. 2016 - 0408 Approve declaring surplus for exchange and conveyance fee title land interests in Orange County containing 40.02 acres, more or less, in exchange for the acquisition of fee title land interests containing 45.07 acres, more or less, in Orange County within the Shingle Creek Project Area, plus associated costs for which funds have been budgeted; approving all without reservation of interests under Section 270.11, Florida Statutes; approving approximately 40.02 acres of lands being removed from the Shingle Creek Project Area. (Real Estate, staff contact, Richard Bassell, ext. 2510)

Summary:

The District is currently acquiring land from willing sellers in connection with the Shingle Creek Project in Orange County, subject to the availability of funding. The Governing Board, at its April 9, 2015 meeting, approved a non-binding Memorandum of Understanding that provided the general terms of a proposed acquisition and exchange transaction. District staff and the Shingle Creek Co-Owners, LLC have since worked out all other terms and conditions of the transaction in a Land Exchange Agreement. Pursuant to the Land Exchange Agreement, the District will acquire fee title to 45.07 acres, more or less, as and as hereinafter referred to as the "Acquired Lands", in exchange for the surplus and conveyance of fee title to 40.02 acres, more or less, and as hereinafter referred to as the "Surplus Lands". The District's ownership within the Shingle Creek Project is currently configured in a scattered pattern. The exchange transaction will further consolidate and separate the ownership of the Surplus Lands and other privately-owned lands and allow the Private Owners to pursue their goal of eventual development. The exchange will similarly consolidate and separate ownership of the Acquired Lands and other District owned lands. The Land Exchange Agreement provides that, for purposes of the exchange, the value of the Acquired Lands is equal to the value of the Surplus Lands, and that the equal value is \$1,000,000. In the District's approved appraisal, the 40-acre Surplus Lands were valued at \$1,000,000, or the equivalent of approximately \$25,000 per acre and a 40-acre portion of the Acquired Lands was valued at \$905,000, or the equivalent of approximately \$22,500 per acre. To cause the Acquired Lands to be of at least equal value to the Surplus Lands, an additional 5 acres were added to increase the Acquired Lands to 45.07 acres, with the assumption that as the additional 5 acres are in the same vicinity as the 40 acres that were included in the appraisal, those additional 5 acres would have an equivalent appraised value of the approximately \$22,500 per acre, and therefore the 45.07 acre Acquired Lands would have a value of \$1,012,500. The Land Exchange Agreement further provides that the District agrees that the Surplus Lands will be removed from the Shingle Creek Project Area.

26. CERP Expenditures and Project Partnership Agreement Update (Everglades Policy & Coordination, staff contact, Matt Morrison, ext. 6844)

Summary:

The Governing Board will be briefed on the status of expenditures by the state and federal partners. This will include costs credited under the Design Agreement, Master Agreement and executed Project Partnership Agreements. The briefing will also include information on the current status of pending Project Partnership Agreements for the projects signed into law by the Water Resources Reform and Development Act on June 10, 2014.

27. Ten Mile Creek Update (Operations, Engineering & Construction, staff contact, John P. Mitnik, ext. 2679)

Summary:

A status and update on the Ten Mile Creek project will be presented to the Governing Board.

28. Resolution No. 2016 - 0409 Approving an amendment to the Fiscal Year 2015 - 2016 budget recognizing unanticipated intergovernmental revenue up to \$800,000 from the Florida Fish and Wildlife Conservation Commission for invasive exotic plant species treatment; providing an effective date. Administrative Services, Staff Contact, Candida Heater, ext. 6486.

Summary:

This proposed budget amendment for Fiscal Year 2015-2016 recognizes unanticipated intergovernmental revenue up to \$800,000 from the Florida Fish and Wildlife Conservation Commission for invasive exotic plant species treatment.

29. 2016 Legislative Summary (Everglades Policy and Coordination, staff contact, Jeff Sumner, ext. 3023)
30. General Public Comment

Staff Reports

31. Monthly Financial Report - Doug Bergstrom
32. General Counsel's Report - Brian Accardo
33. Executive Director's Report - Peter Antonacci
34. Board Comment
35. Adjourn

Members of the public wishing to address the Governing Board on agenda items which require a vote are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board during public comment on the consent agenda. Governing Board policy limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda. Unless otherwise determined by the Chair, Board action on Consent Agenda items moved to the discussion agenda will occur at or after 9:00 a.m. on Thursday.